

**Department of
Conservation &
Development**

County Administration Building
651 Pine Street
North Wing, Fourth Floor
Martinez, CA 94553-1229

Phone: (925) 335-1240

**Contra
Costa
County**



Catherine O. Kutsuris
Director

June 23, 2011

Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
(Via email to deltaplancomment@deltacouncil.ca.gov)

Dear Chair Isenberg and Councilmembers:

Thank you for the opportunity to review the Fourth Staff Draft Delta Plan (Delta Plan) dated June 13, 2011.

As a general comment, we continue to believe the Delta Plan is too complex and bureaucratic and does not add the value anticipated from the Delta Reform Act of 2009. We were under the impression that the Delta Stewardship Council's (Council) task was to take the various Delta planning efforts already underway and try to coordinate them in a cohesive way. Instead, the Council has created an entirely new regulatory framework that will be needlessly burdensome to local government and potentially impede important habitat conservation work.

The Delta Plan's narrative sections and content has improved from prior drafts. However, additional refinement to the Executive Summary is recommended. Additional fact checking on other narrative sections is also recommended.

Contra Costa County staff offers the following more detailed comments in the remainder of this letter. As you will see, our comments cover policy, process, and technical/scientific issues.

Page 3, lines 26-30: The Delta Plan, like many other Delta-related documents, refers to the co-equal goals of enhancing the Delta ecosystem and providing a more reliable water supply. The County recommends the Council develop some detail on what is meant by "more reliable" water supply. Does this term mean additional exports, or holding exports at a consistent level? Could it mean to reduce water demand, or water contract amounts, to make it easier to consistently meet water supply obligations? Or does it mean that those with junior water rights cannot and will not receive the same level of reliability as those users with superior water rights? Currently, the use of this term in the Delta Plan is ambiguous can be misinterpreted.

Page 4, lines 31-37: This section mentions that the Delta Plan is different from other government plans as it contains integrated and legally enforceable regulatory policies called *covered actions*. In addition to some projects and programs covered through this regulation, there are many plans, programs and projects that affect the Delta (e.g. *California Water Plan, Delta Levee Subventions and Special Projects Programs, Interim Federal Action Plan for the California Bay-Delta*), that are not included and which could have a greater impact on the Delta than regulated covered actions. How will the Council ensure meaningful review of these activities that affect the Delta but are outside the scope of the current Delta Plan?

The Executive Summary and other parts of the Delta Plan (pages 17 and 48) discuss the wholesale acceptance of the Bay Delta Conservation Plan (BDCP) by the Council if certain criteria are met. Should the BDCP not be adopted, or if adopted, should fail (CALFED comes to mind here), what would be the Council's *Plan B*? If the BDCP fails, it is also likely that the adaptive management process has been unsuccessful and several species have become extinct. A *Plan B* to address this and include alternative approaches (other than updating the Delta Plan every five years) is recommended. The Delta Plan should include milestones or other mechanisms that would trigger implementation of *Plan B*.

Page 5, lines 21-29: This section discusses the restoration of the Delta ecosystem with a focus on restoring two foundational Delta attributes; natural flow regime and adequate habitat. The Delta Plan boasts "*expedited action on both*". The Delta Plan endorses the work of the State Water Resources Control Board in establishing necessary flow standard (see pages 88 and 89), but the Delta Plan provides no assurance that these flow standards are adequately considered by the BDCP, which proposed to significantly affect Delta flows and habitat. The actions by BDCP proponents to ignore the scientific advice of others and to make foundational decisions behind closed doors are facts that should be addressed by the Delta Plan's policies and recommendations. The Delta Plan should ensure that the criteria for best available science on Table 2-1 will be followed by the BDCP.

Page 5, lines 39-41: This section recommends the creation of a locally controlled Delta levee assessment district. There are a host of legal, procedural and financial issues that would need to be sorted out if such an assessment district is created. For example, the Delta Plan needs to include policies and recommendation for integrating such an assessment district with state interest as expressed in policy RR P4 (*A Framework for Department of Water Resources Investments in Delta Integrated Flood Management*). While we believe there is some value in studying this possibility, we do not believe the state should be relieved of its financial responsibilities for Delta levee improvements, which are of statewide significance.

Page 5, lines 39-41: This section and other parts of the Delta Plan declare the intention to reduce risk to people and property through flood protection. It is important to note that the Delta Plan addresses levels of protection and recommends prioritizing levees for restoration, yet stops short of recommending immediate actions to repair levees. State bonds for levee repair have been available since 2006. A comprehensive assessment of levee conditions in the Delta has been underway for some time. And the Council apparently believes Delta levees are at great risk of catastrophic failure. However, the Delta Plan is recommending yet another study to determine state investments for levee operation, maintenance and improvements, the draft of which will not be available until January 2013. It is not hard to imagine agreement among stakeholders on selection of levees that could begin repair now, while other, longer term efforts get underway. The Council should commit to immediate actions to commence with levee repair in the Delta.

Here and elsewhere the Delta Plan recommends the creation of a locally controlled Delta levee assessment district. While we believe there is some value in studying this alternative, we are not

sure it is the right direction. Neither the Council's early actions, its "white papers", or the Delta Plan support any findings as to the cause of substandard levee conditions in the Delta, the standard that should be achieved for these levees, the inadequacies of current strategies to correct substandard conditions, the ability of the recommended assessment district to effectively address these causal factors and inadequacies, or the lack of other viable alternative actions. Contra Costa County has enclosed an issue paper that we have developed on this concept which we offer as input for any study that may occur on the matter.

Page 6, lines 10-14: The section deals with the problems in the Delta associated with risk of flood. While there is no argument on the fact that there is a degree of risk, there is considerable debate as to how the degree of risk is determined and the accuracy of that determination. Policy RR P4 should be modified to ensure that the criteria for best available science on Table 2-1 will be followed by DWR.

Page 11, line 38-44: The section discusses dependence on water supplies from the Delta and the need for reliability. The definition of reliability and the degree to which this is satisfied is not addressed in the Delta Plan. What is also missing here is content from the Interim Plan (page 2, lines 16-29) which describes the extent to which current water supplies are overpromised and the state's system to regulate water rights and have accurate information on water uses is inadequate. This text from the Interim Plan needs to be added to the Delta Plan's description of current conditions.

Page 15, lines 5-13: The section outlines water use reductions over time. Since agriculture represents that greatest user of water diversions, the Delta Plan should describe whether or not water use efficiencies have been achieved by the agriculture sector over time.

Page 42, lines 29-35: This section mentions that Delta Plan regulatory policies are not intended to take or damage property, or affect property rights. It appears however that the covered actions policy may indeed enter this realm by requiring costly and burdensome review procedures for development activities in the Delta that have little relationship to the need for ecosystem restoration or flood protection.

Page 45, lines 1-4: This section states that ministerial actions are exempt from the certification process only if there is a prior certification already filed, for the ordinance on which the ministerial action is based. This seems to indicate we must obtain consistency certifications in advance for every ordinance on which we could possibly base a ministerial action. This is an onerous and unjustified requirement. Ministerial actions should be exempt from the certification process, as they are from California Environmental Quality Act (CEQA) review.

Page 45, lines 1-15: This section lists the types of projects or actions that will be exempt (i.e., not considered "*covered actions*"). Contra Costa County continues to ask that exemptions also be granted to two other types of projects: those that are statutorily exempt from CEQA, and those that are identified as "*covered actions*" in an adopted Habitat Conservation Plans/Natural Community Conservation Plans (HCP/NCCP). In reading the current draft of the Delta Plan, the Council has refused to provide such exemptions or an explanation for this refusal. In regard to

the adopted HCP/NCCPs, a tremendous amount of work and resources have already been put into the analysis and evaluation of covered actions identified in our *East Contra Costa HCP/NCCP* to ensure these actions do not significantly impact sensitive plant and animal life. Our HCP/NCCP, and the others that are in process in the Delta counties, will provide for the conservation of 99 special status and at-risk species that depend on the Delta and surrounding habitats. At a minimum, actions to acquire, manage and restore habitat pursuant to such HCP/NCCPs should be exempted from the Delta Plan certification requirements. To do otherwise would cause the Council to interfere with implementation of the California Endangered Species Act which is prohibited by the Delta Reform Act of 2009.

Page 47, G P1: This section indicates that a local jurisdiction must complete the CEQA environmental review of a project before determining its consistency with the Delta Plan. Lines 3 and 4 in particular state the certification of consistency must disclose "*all potentially significant adverse environmental impacts and mitigations....*" This seems to conflict with the statement on page 44, lines 33-34, that "*if requested, the Council's staff will meet with an agency's staff during 'early consultation' to review the consistency of a proposed action...*" It is unclear as to how the consistency of a proposed action could be reviewed upfront, if the action's environmental impacts aren't yet known. The Delta Plan should clarify the process.

Page 47, G P1, lines 5-6: This section states that all covered actions must document use of the best available science as described in Chapter 2. This is an extensive, costly, and technical process that has the potential to turn every routine local project into a major scientific study. In addition, it will not be easy to identify the best available science, even using the methods described in Chapter 2. There is often disagreement among scientists on a given issue. The time and cost of complying with this requirement could be prohibitive. The scope of this requirement needs to be limited to projects that are of a significant size and whose outcomes are science-based.

Page 60: Figure 4-4 needs to be explained. A prior figure indicates that irrigated agriculture is responsible for 77% of the state's water use. Yet Figure 4-4 estimates that strategies for agricultural water use efficiency have little potential to reduce water demand or add supply. The average reader might be surprised that the sector responsible for 77% of our water use would not play a major role in reducing water demand or adding supply. The Delta Plan needs to provide some explanation for the results shown in Figure 4-4 for agricultural water use efficiency.

Page 68, highlighted box: The Delta Plan notes that water transfers are sometimes made available by pumping groundwater. Consistent with the discussion of sustainable groundwater management on page 70, the Delta Plan should be revised to prohibit transfers that pump groundwater instead of using surface water if the groundwater basin is already overdrafted (mined below a higher aquifer level represented by average levels in an earlier time). In addition, the Delta Plan should require the use of some mechanism for tracking temporary water transfers, as these transfers can occur year after year.

Page 89, footnotes: Footnote 29 states the State Water Resources Control Board staff will work with the Council to determine priority streams. Several potential priority streams are named as

examples. Sound science would require the inclusion of the Upper San Joaquin River above its confluence with the Merced River. The percentage of unimpaired flow that typically makes it to the confluence with the Merced is less than ten percent and often zero. Restoration of flows in this section of the San Joaquin River should be a high priority. We ask that the Upper San Joaquin River be considered a priority stream.

Page 91, lines 17-20: Policy ER P4 requires projects that substantially rehabilitate or reconstruct an existing levee to evaluate and, if feasible, incorporate alternatives (including setback levees) that would increase the extent of floodplain and riparian habitats. This requirement may significantly impede the rapid repair of levees that are vital to Delta water quality or conveyance. This policy needs to be further refined to exempt emergency repairs and strategic near term investments in levee rehabilitation and reconstruction.

Page 91, last bullet point: This is a reference to the Lower San Joaquin River Floodplain. Page 137, line 1, refers to a Lower San Joaquin River Flood Bypass. We suggest clarification as to whether these are the same project or different ones.

Page 96, highlighted box: In addition to *Egeria*, the reference to aquatic vegetation should also include the similarly problematic *water hyacinth*. Both forms are referred to in detail at the bottom of page 113.

Page 96, highlighted box, Action 9: This section calls for investigating the introduction of parasites as a means of controlling invasive clam or mussel species. This investigation must look into the risks that would be presented to other species by the introduction of parasites in the Bay-Delta system.

Page 97, lines 2-6: Ecosystem Recommendation ER R8 states that in the event the BDCP is not completed by December 31, 2014, the Council will consider how to proceed with developing ecosystem and conveyance planning. It is our understanding the Council currently has the technical staff to perform this work. In 2015, however, the Council may not have the funding or resources to carry out this type of planning, in the event that the BDCP process is not complete by that time. The Council should develop contingency plans for how to proceed with ecosystem and conveyance planning if the BDCP intake permits are not received by the required date.

Page 104, highlighted box: The text lists the ways in which water quality is important, including more reliable water supply, ecosystem protection, and contributing to the values of the Delta as an evolving place. This section also should list human health as one of the values that is dependent on water quality. We suggest the second sentence be edited to read: "*Water quality plays a critical role in the protection of human health, the achievement of a more reliable water supply, and protection, restoration and enhancement of the Delta ecosystem.*"

Page 119, lines 29-34: Recommendation WQ R6 calls for development of a monitoring program to ensure Delta water quality is effectively monitored and reported on a regular basis. This should also include monitoring the water upstream of the Delta to help identify sources of

contamination reaching the Delta. Recommendations WQ R5 through WQ R8 all should be edited to include upstream monitoring.

Page 136, lines 12-14: The Council's *Flood Risk White Paper* indicates that the Central Valley Flood Protection Board approves or denies plans for improvements that alter any levee, any land reclamation plan, or flood protection project near rivers. The Delta Plan should review the actions during the past ten years of the Central Valley Flood Protection Board related to new development in the Delta and, if appropriate, include policies or recommendations applicable to the Board's responsibilities that would reduce risk to people, property and state interests.

Page 137, lines 16-23: The section considers dredging of navigable waters and related plans. Dredging of channels to increase flood-carrying capacity and dredging of deepwater shipping channels is an important component to be considered and will provide additional material for levee rehabilitation and wetlands creation. The Delta Plan should include a recommendation to encourage state agencies to work with federal agencies through the *Interim Federal Action Plan for the California Bay-Delta* to provide the resources needed to expedite completion of the *Delta Dredged Sediment Long-Term Management Strategy*.

Page 139, graphics: This set of graphics shows the projected impacts from a 6.5-magnitude earthquake-induced levee failure, resulting in a "20-island failure." The graphics show salt water intruding into the Delta due to the levee failures. It should be noted, however, that if the earthquake occurred during high outflows, the Delta would be fresh and the islands would tend to fill with fresh rather than salty water. The graphics should have some explanatory text to indicate whether this modeled scenario is a case in which Delta outflow was low or high when the earthquake occurred.

Page 143, lines 2-28: Policy RR P4 proposes that DWR prepare *A Framework for Department of Water Resources Investments in Delta Integrated Flood Management*. It appears relevant to mention that in September of last year, DWR reported to the Council that it would issue a paper on Delta flood management investments by December 2010. DWR staff explained that the paper would provide policy level recommendations for flood management in the Delta, addressing levee subvention/special project programs, and set goals and strategies for other investments not covered by Central Valley Flood Protection Plan. How does policy RR P4 relate to the DWR testimony received by the Council last September?

Page 162, lines 10-11: Recommendation DP R5 should be revised to include the National Heritage Area boundary proposed by Senators Feinstein and Boxer in S.3927. A copy of that boundary is enclosed. In addition to the Delta, this boundary includes the area within Contra Costa County managed by the Carquinez Heritage Preservation Trust.

Page 170, third bullet point: The operating costs given for the three Delta agencies are staggering (\$50 million per year). Specific estimates are \$27 million annually for the Delta Science Program and Independent Science Board, which are both under the Delta Stewardship Council; \$8 million annually to administer the Stewardship Council itself; \$10 million a year for

the Delta Conservancy; and \$5 million annually for the Delta Protection Commission. The Council should provide documentation on how these cost estimates were derived.

Page 173, first bullet point: The user fees/stressor fees described here should be used for Delta infrastructure improvements (particularly levee repairs and improvements) in addition to paying the operating costs of the three Delta agencies. The proposed use of the fee revenue -- to finance ten years' worth of agency operating costs -- appears to represent a small part of the actions embodied in the Delta Plan. The Council should expand this recommendation to include the infrastructure needed to support the co-equal goals.

Thank you for your consideration of these comments. Please contact John Greitzer at 925-335-1201 or at john.greitzer@dcd.cccounty.us if you have any questions on this correspondence.

Sincerely,



Steven L. Goetz, Deputy Director
Redevelopment, Conservation and Transportation Planning Programs

Enclosures:

Delta Flood Risk Management Assessment District Formation Issues
Sacramento – San Joaquin Delta National Heritage Area Proposed Boundary

G:\Conservation\Water Agency\Delta Stewardship Council\Delta Plan\Correspondence\comments on 4th staff draft delta plan.doc

C: Members, Transportation, Water and Infrastructure Committee
 K. Basting, District III Supervisor's Office
 C. Glickman, District IV Supervisor's Office
 M. Avalon, Contra Costa County Flood Control District
 L. DeLaney, County Administrator's Office
 R. Denton, Richard Denton & Associates
 P. Kutas, Delta Counties Coalition
 Members, Delta Counties Coalition Technical Advisory Committee
 C. Christian, Nielsen Merksamer
 B. Glover, BIA Bay Area

Delta Flood Risk Management Assessment District Formation Issues

I. Introduction

Chapter 7 of the Delta includes a section on *Financing of Local Flood Management Activities*. This section proposes the formation of a new Delta agency that would have the ability to form an assessment district. This agency would oversee the levees in the Delta and provide for emergency preparedness planning. If done right, such an agency could be beneficial to Delta counties and Reclamation Districts. If done wrong, such an agency could be a burden and liability to Delta counties and Reclamation Districts. One of the problems in the Delta is the lack capacity in many reclamation districts to fight for or acquire the necessary funding. State bonds for Delta levees are still largely unspent. A Delta agency, controlled by local interests with adequate financing and unburdened by liability, has the potential to remedy this situation.

There are many issues, concerns and questions about how a Delta agency would be governed, what its' mission would be and how it would be financed. The following are some items and questions to consider when discussing the formation of a Delta agency. This is just a starting point for discussion purposes and will need much more review, especially from a legal perspective. The items are organized by mission, governance, and financing.

II. Mission

- **Purpose/Responsibility.** Recommendation RR-R7 in the third draft of the Delta Plan lays out a proposed purpose and mission for a Delta agency. Agreement needs to be reached on the purpose and mission of the Delta agency by all parties. In addition, for each element of the agency's mission there should be an understanding and agreement (with the force of state legislation) on what the responsibility and role (and consequences) for the agency in accepting that mission element.
- **Conditions Assessment.** Should the proposed regional flood management plan in recommendation RR-R7 include a conditions assessment of all Delta levees? There are currently several efforts going on to address flood management in the Delta. For example, the state is working on the Central Valley Flood Protection Plan, however, it only addresses the State Plan of Flood Control which is project levees only. In June of last year, DWR reported to the Delta Stewardship Council (Council) that conditions assessments are underway for all levees in the Delta, but DWR has yet to report on the findings of this assessment. No state policy has been established on the minimum standards that Delta levees should meet. Are there other elements that should be included in a regional flood management plan?

- **Costly Activities.** Should the agency mission be reviewed in conjunction with the costs to manage and implement the various elements of its mission? The current Delta Plan proposes this Delta agency *“survey levees and report survey and conditions data to DWR every five years”*. In addition, the proposal is to “notify residents and landowners of flood risk on an annual basis”. These activities could be very expensive. Before these types of expensive items are added to the agency’s mission, there needs to be an estimated budget for these items and every other item the agency is responsible for. There should also be an estimate of annual revenue expected from its financing authority. Notification of conditions data should also be given to levee beneficiaries who may not be residents or landowners (e.g. state and federal water contractors).
- **Emergency Recommendations.** The emergency procedures developed by the agency should be consistent with the recommendations from the SB 27 task force. A lot of effort has gone into the task force recommendations, which have been agreed to by the State and Delta counties.

III. Governance

- **Governing Body.** The governing body should have a preponderance of local representation to ensure local control of the agency. But what does local control mean? Who and how many will be represented on the governing body? Delta counties and a representative sampling of the almost 100 Reclamation Districts? Should State and federal agencies also be represented on the governing body? Should out-of-Delta interest that benefit from Delta levees be represented (e.g. railroads and utilities)?
- **Staff Support.** To be effective, this agency must have adequate staff support so having an executive director would seem to be essential.
- **Agency Boundary.** The boundary of the Delta agency needs to be agreed to. The current proposal is to include the legal Delta, primary and secondary zones, plus Suisun Marsh. Should the boundary extend outside of the primary and secondary zones to better meet its mission?
- **Inter-agency Relationships.** The relationship between the Delta agency and the Delta Protection Commission, the Delta Stewardship Council and the Delta Conservancy needs to be thought through. The Delta Protection Commission will need the levee information generated by the agency to do effective planning in the Delta. Should the agency report to the Commission on a regular, perhaps annual, basis? What should be reported to the Commission? Conversely, the Agency will need to know the planning efforts underway by the Conservancy to understand which levees may be breached for wetlands mitigation. How will this

interaction occur and on what schedule? What would be the interaction and interagency relationship between the agency and the Delta Stewardship Council and the Department of Water Resources?

- **Governance Structure.** What is the best structure for a Delta agency? There are several structures the agency could be organized under, each with advantages and disadvantages. Some governance options include a state agency and part of the state administration, a joint powers authority amongst the Delta counties, amongst the Reclamation Districts, amongst the Reclamation District Associations, or some combination, or an independent special district with a separate elected board. There may be other options in addition to these. Each one has its advantages and disadvantages with regards to liability exposure, ability to attract funding and effectiveness in carrying out its mission. The advantages to one party of interest may be a disadvantage for another party of interest. Alternatively, the Delta agency could be a Delta Flood Protection Commission that would have oversight authority over the Department of Water Resources responsibilities in the Delta.
- **Statutory Authority.** What will be the statutory authority that will govern the Delta agency? What assurances are there that follow-up legislation will codify any accord reached between the parties of interest to establish a Delta agency? Any solution to this problem requires the state to step up and meet its responsibilities for levee protection in the Delta, and the state's interest are quite significant here

IV. Financing

- **State Parcels.** Should any assessments on parcels in the proposed Delta Flood Management Assessment District include state parcels and should the state pay the parcel assessment(s)? The state owns a significant number of parcels in the Delta, and if Fish and Game manages the wetlands from BDCP mitigation then the state will own many more acres of land in the Delta.
- **Value-based Assessments.** Should the assessment on parcels be based on value? For example, should the value of protecting a state highway through the Delta be reflected on the assessment that Caltrans pays to maintain and improve the levees? If so, what should that value be?
- **State Veto.** Should the state have the ability to veto a vote on establishing, modifying or updating an assessment? Several reclamation districts and Yolo County have had experiences in the past where the state has voted no on an assessment and their no votes defeated the ballot measure.

- **Current Funding.** There currently exists funding mechanisms for levee maintenance and improvements, for example the Delta Levee Subvention and Special Projects Programs. Most of the funding programs are managed by DWR. What would be the role and responsibility of DWR and the agency with regards to existing funding mechanisms? Would they remain with DWR, would they be transferred to the agency, would there be a mix? If some or all of these funding mechanisms are transferred to the agency, how would they be transferred and under what authority? Why aren't these funds being spent effectively now given the perceived vulnerability of Delta levees?
- **Financing Mechanisms.** What type of financing authority would be most effective to achieve the agency's objectives? What is the likelihood of having a successful assessment vote in an assessment district context? Are there better solutions to provide local financing, such as a community financing district? Perhaps a thorough legal analysis of the various financing options needs to be performed to make an informed decision on the option that will provide the greatest chance of success. Is failure to approve a financing mechanism an option?
- **Funding Flow.** Thought needs to be given on how State funds would flow to the agency. Is it better to be appropriated each year through the legislature or to be part of the administration budget? Although in the end it is all subject to budget negotiations, there may be advantages in one over the other. Future Bond funding probably should not be relied on as a funding source.
- **Beneficiaries Pay.** Should there be another layer of financing from beneficiaries outside of the Delta that benefit from levee maintenance and improvements. For example, a fee attached to the water bills for those agencies that derive water transported through the Delta and then exported outside the Delta. Are there other beneficiaries such as habitat protected by levees? How will railroads and utilities that benefit from levees be assessed?
- **Liability.** There is liability exposure in managing and maintaining all the levees in the Delta. Should the agency be saddled with all of this liability? Are there ways to limit liability exposure for the agency to an acceptable level? Should the responsibility of managing and maintaining levees reside with the agency?
- **Responsibility Shift.** Existing statutes and court cases, such as the Paterno decision, require the Department of Water Resources to do several things or have certain responsibilities that are proposed to be shifted to the Delta agency. For example, DWR may be able to shift liability for its levee maintenance to the agency. Existing statutes require DWR to inform all landowners of flood risk, which is proposed for the agency to do. Should a comprehensive list of responsibilities performed, managed or owned by the State be developed that is

proposed to be shifted to the agency? At the least this may help in discussions on funding.

- **Tiered Financing.** There are about 1 million residents living behind levees in the Delta and about 200,000 parcels. If each parcel paid a \$100 assessment each year the agency would receive \$20 million annual revenue. Jeff Mount recently indicated it may cost \$20-\$25 billion to improve the Delta levees. More revenue will be needed than what can be reasonably generated from the properties located behind the levees. To achieve its mission the agency would likely need funding from several sources. For example, additional funds could come from other beneficiaries and from state and federal sources. A solid budget estimate should be developed and funding identified to cover the budget before the agency concept can be fully agreed to.
- **Project and Non-Project Levees.** Currently project levees are the responsibility of the State and non-project levees are the responsibility of local Reclamation or Levee Maintenance Districts. Property owners within each Reclamation District or Levee Maintenance District assess themselves to maintain their levees and apply for funding whenever possible to make improvements. To that end many existing parcels behind levees within the Delta are already paying an assessment to maintain levees. Some argue that the property owners are getting what they need from the current assessments, and studies point to state interests that require a higher level of protection than what RDs currently provide. What guarantee will there be that property assessments for Delta property owners will be reasonable and that the assessments they are currently paying will not be directed to some other levee like a State project levee, leaving the non-project levee more poorly funded under the agency administration than the funding level that currently exists today?

V. Conclusion

A Delta agency is not required by statute but is proposed in the Delta Plan to address an identified problem statement that "financing of local levee operations, maintenance, and related data collection efforts is not well coordinated".

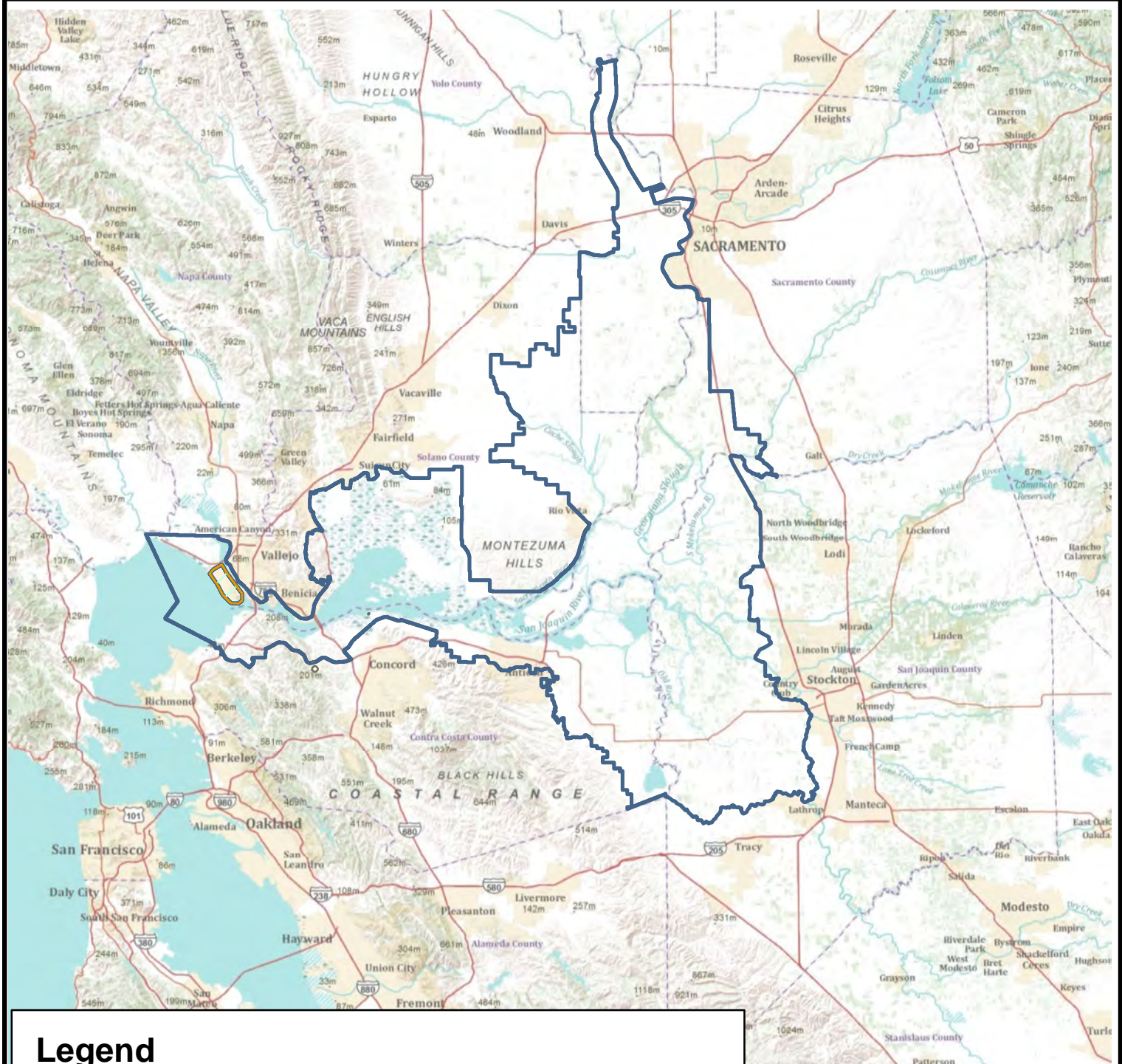
Developing all of the elements of a Delta agency, with its various options for governance, mission and roles and responsibilities will take quite some time, especially with all of the various parties of interest that are involved. The Delta Plan is on a tight timeline and it seems unreasonable to expect a Delta agency to be developed and agreed to within this same timeline. Perhaps it would be better for the Delta Plan to articulate a process rather than to develop an agency at this stage. For example, the Delta Plan could outline a community-based, transparent and open process to evaluate the accuracy of the problem statement, identify objectives to address the problem statement, and determine whether a Delta

agency is the best method of achieving those objectives. If it's decided that a Delta agency is the best method, then the process would outline how to define and develop that agency. If it turns out a Delta agency is not the best method, then the process would outline a way to determine how to meet the objectives in a different and satisfactory fashion to address the problem statement.

Any process that is initiated by the Council must be accompanied by initiating early actions that implement strategic levee investments in the Delta and that fund priorities for state investments in levee operation, maintenance and improvements in the Delta, pursuant to the Delta Reform Act (§85305.a and §85306).

Sacramento-San Joaquin Delta National Heritage Area Proposed Boundary

National Park Service
U.S. Department of the Interior



Legend



Area not included



Sacramento-San Joaquin Delta NHA Proposed Boundary

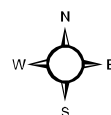
OFFICE: Land Resources Program Center

REGION: Pacific West Region

PARK: SASA

MAP NUMBER: T27/105,030

DATE: SEPTEMBER 2010



10 0 10 20 Miles

